

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ELTON HOUSTON,

Plaintiff,

v.

Case No. 2:07-cv-63
HON. R. ALLAN EDGAR

GERALD RILEY, et. al.,

Defendants.

_____ /

MEMORANDUM AND ORDER

_____ Plaintiff Elton Houston, a Michigan state prisoner in the custody of the Michigan Department of Corrections, brings this *pro se* civil rights action under 42 U.S.C. § 1983. On January 28, 2009, Magistrate Judge Timothy P. Greeley submitted his report and recommendation [Doc. No. 85] pursuant to 28 U.S.C. § 636(b)(1)(B) and W.D. Mich. LCivR 72.1(c). It is recommended that the defendants' motion for summary judgment [Doc. No. 58] be granted pursuant to Fed. R. Civ. P. 56 and that the plaintiff's entire complaint be dismissed with prejudice. Plaintiff Houston has not timely filed an objection to the report and recommendation.

After reviewing the record, the Court **ACCEPTS and ADOPTS** the report and recommendation pursuant to 28 U.S.C. § 636(b)(1), Fed. R. Civ. P. 72(b), and W.D. Mich. LCivR 72.3(b). Accordingly, the defendants' motion for summary judgment [Doc. No. 58] is **GRANTED** pursuant to Fed. R. Civ. P. 56. The plaintiff's entire complaint shall be **DISMISSED WITH**

PREJUDICE with each party to bear their own costs of this action.

For the same reasons that the Court dismisses this action as discussed in the report and recommendation, the Court will certify that there is no good faith basis for plaintiff Houston to take an appeal from this decision. 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(4)(B); *McGore v. Wrigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997).

A separate judgment will enter.

SO ORDERED.

Date: March 6, 2009.

/s/ R. Allan Edgar

R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE